

REMARKS

Claim Rejections -35 USC §102 and 103

Insofar as the rejection original claims 1-37 under 35 U.S.C. 102 and 103 might be applied to claims 38-59 consideration of the following is requested.

The prior rejection included:

"Claims 1,8 and 24 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Banner."

Claims 2-7,21 and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banner. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Banner with the claimed conventional means for monitoring (as disclosed by applicant), in lieu of his, by the substituted use of one known equivalent element for another, for monitoring a part of the building.

Claims 11-18,22,23 and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banner in view of Krupal. Banner shows the claimed system with the exception of the ladder having rung projections. Krupal shows a ladder with rung having projections. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Banner with a ladder having rungs with projections, as taught by Krupal, for spacing the ladder from a building. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Banner with the claimed conventional means for monitoring, in lieu of his, by the substituted

use of one known equivalent element for another, for monitoring a part of the building.

Claims 9,10,32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over UK. Pat. 848 to Melville in view of Banner. Melville shows the claimed system but silent on the means for motoring. Banner teaches a means for monitoring. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Melville with a means for monitoring, as taught by Banner, to enable automatic release of his means for releasing.

Furthermore, to provide the claimed conventional means for monitoring, in lieu of the means as taught by Banner, by the substituted use of one known equivalent element for another, for monitoring a part of the building.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melville and Banner, as applied to claims 9 and 10 above, and further in view of Krumal as applied above."

All of the original claims have been cancelled and new claims added (both apparatus and method) herein provide that the system and method include a microprocessor. This structure is disclosed at page 8 of the specification.

Applicant does not in any way concede that the combination of references would teach the presently claimed invention. Moreover, it is respectfully submitted that the combination of references is not permissible because it fails to meet the established standard:

In re Dance, 160 F.3d 1339, 1343 (Fed. Cir. 1998) ("When the references are in the same field as that of the applicant's invention, knowledge thereof is presumed. However, the test of whether it would have been obvious to select

specific teachings and combine them as did the applicant must still be met by identification of some suggestion, teaching, or motivation in the prior art, arising from what the prior art would have taught a person of ordinary skill in the field of the invention.");

Karsten Mfg. Corp. v. Cleveland Golf Co., 242 F.3d 1376, 1385 (Fed. Cir. 2001) ("In holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention.");

In re Fine, 837 F.2d 1071, 1075 (Fed. Cir. 1988) (there must be "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references");

Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143 (Fed. Cir. 1985) ("When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself.").

The Banner reference does teach the use of "heat and/or smoke sensors at column 2, lines 1-8. The Melville reference teaches a push-switch at page 3, line 13. The Krumal reference teaches the use of outwardly directed hand pressure in the abstract.

It is respectfully submitted that none of the references, alone or in combination includes any showing or suggestion of any system that includes a microprocessor much less includes a monitoring system for protecting at least a part of a building for a life threatening conditions selected from the group consisting of fire, seismological and terrorist threats which includes a security system including a microprocessor.

Thus, there is no motivation to combine the references and even if they were combined they would not teach the present invention.

It is respectfully submitted that the claims submitted herewith are allowable and such action is requested.

Should a petition for an Extension of Time be necessary for the timely reply to the outstanding office action (or such a petition has been made and an additional extension is necessary) petition is hereby made in the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account Number 19-2635 under Attorney Docket Number H0006005-0555.

Respectfully submitted,



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